

DRAFT INFORMAL GUIDELINES TO ASSIST LOBBYISTS IN PREPARING FOR A COMMISSION RANDOM AUDIT:

Note: This is the first year of random audits of lobbyists by the Tennessee Ethics Commission. Thus, these Guidelines are subject to change without notice, and the Commission is not restricted from requesting records other than those discussed below. The Commission recognizes that lobbyists need some guidance in preparing for a random Commission audit. Thus, the Commission shall attempt to adhere to the spirit of these Guidelines.

Statutory Authority: T.C.A. § 3-6-308(a)(7) provides that it is the duty of the Commission to “audit each year the registration statements, amendments to registration statements and reports of at least two percent (2%) of all lobbyists.”

NOTE: IN THE CASE OF LOBBYISTS WITH MULTIPLE EMPLOYERS, THE AUDIT WILL COVER EACH EMPLOYER OF A LOBBYIST.

A. Lobbyist Registration filed pursuant to T.C.A. § 3-6-302(b)(2): If it has not done so already, the Commission will verify the following from the lobbyist registration statement(s):

1. Did the lobbyist timely register pursuant to T.C.A. § 3-6-302(a)(2)?
2. Has the lobbyist made efforts to verify that the employer of the lobbyist registered and did so in a timely manner?
3. Has the lobbyist accurately completed the form including the answers to Question 6 [name and business address of any member of the lobbyist’s immediate family who is an official of the legislative or executive branch – T.C.A. § 3-6-302(b)(2)(D)] and Question 9 [the extent of any direct business arrangement or partnership between the lobbyist and any candidate for public office or any official in the legislative or executive branch – T.C.A. § 3-6-302(b)(2)(E)]?
4. Has the lobbyist entered into a prohibited agreement to provide lobbying services [contingent fee agreements or contracts are prohibited pursuant to T.C.A § 3-6-304(k)]?

Records to be provided by lobbyist:

A copy of their written agreement with the employer. If no written agreement exists, then a memo or other written document from the employer outlining a verbal agreement to provide lobbying services must be provided. In the case of an in-house lobbyist, a copy of their employment contract or job description must be provided.

Other records as may be requested by the Commission as it deems necessary to verify the information contained on the registration statement and any relevant contracts.

B. In-State Event Form filed pursuant to T.C.A. § 3-6-305(a)(8): If it has not done so already, the Commission will verify the following information from the In-State Event Form(s):

1. Did the lobbyist timely file the invitation to an in-State event sponsored or co-sponsored by the lobbyist with the Commission?
2. Was the invitation sent to all members of the Legislature?
3. Was documentation of the per person cost timely sent to the Commission?
4. Was the per person cost properly calculated and reported?

Records to be provided by lobbyist:

A copy of the invitation to the event.

Receipts to the event.

Attendance records of the in-State event.

Other records as may be requested by the Commission as it deems necessary to verify the information contained on the registration statement and any relevant contracts.

C. Employer of Lobbyist Six Month Expenditure Report filed pursuant to T.C.A. § 3-6-303: The Commission does not audit employers of lobbyists unless there is probable cause to do so [See T.C.A § 3-6-308(a)(7).] Rather, the employer of lobbyist six month expenditure report(s) will be used to verify the following:

1. Lobbyist compensation as defined by T.C.A. § 3-6-301(7).
2. In-state event reporting (see above.)

Records to be provided by lobbyist:

Compensation, as defined under T.C.A. § 3-6-301(7), paid to the lobbyist by the employer of the lobbyist. This may be established by check, bank records, tax records and other documents.

Expenses directly paid by the lobbyist to third party vendors on behalf of the employers.

Records previously mentioned above with regard to in-State events.

Other records as may be requested by the Commission as it deems necessary to verify the information contained on the registration statement and any relevant contracts.